

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Tsui	Team: Squad #15	CCRB Case #: 202002001	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 03/09/2020 12:30 AM	Location of Incident: Utica Avenue and Beverley Road, Brooklyn, NY 11203	18 Mo. SOL 4/26/2022	Precinct: 67		
Date/Time CV Reported Tue, 03/10/2020 10:45 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 03/10/2020 10:45 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Caner Sezer	25291	951236	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Stephen Bell	05532	948650	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Caner Sezer	Force: Police Officer Caner Sezer pointed his gun at § 87(2)(b)	
B . POM Caner Sezer	Abuse: Police Officer Caner Sezer threatened § 87(2)(b) with the use of force.	
C . POM Caner Sezer	Discourtesy: Police Officer Caner Sezer spoke discourteously to § 87(2)(b)	
D . POM Caner Sezer	Abuse: Police Officer Caner Sezer threatened to arrest § 87(2)(b)	

Case Summary

On March 10, 2020, § 87(2)(b) filed this complaint with the CCRB over the phone.

On March 9, 2020, at approximately 12:30 AM, § 87(2)(b) was pulled over by Police Officer Caner

Sezer of the 67 Precinct in the vicinity of Utica Avenue and Beverley Road in Brooklyn. Police Officer Sezer approached § 87(2)(b) driver side with his firearm drawn and pointed at § 87(2)(b). (Allegation A: Force-Gun Point, § 87(2)(g)) Police Officer Sezer's partner, Police Officer Bell exited the patrol vehicle and walked behind Police Officer Sezer. Police Officer Sezer told

§ 87(2)(b) that if he moved, he would get hurt (Allegation B: Abuse of Authority-Threat of Force (verbal), § 87(2)(g)). § 87(2)(b) sat at his driver seat and raised both his hands in the air. § 87(2)(b) told Police Officer Sezer that his was a postal worker and that he was on his way to work. Police Officer Sezer cursed at § 87(2)(b) (Allegation C: Discourtesy-Word, § 87(2)(g)). Police Officer Sezer threatened to take § 87(2)(b) to jail (Allegation D: Abuse of Authority-Threat of Arrest, § 87(2)(g)). § 87(2)(b) was issued three summonses for driving at a speed above posted limit, speed not reasonable and prudent and failure to comply with a lawful order. (Board Review 19).

Police Officer Sezer's BWC video was obtained by the investigation (Board Review 4) and attached to IA #52. The BWC video was summarized in IA #53.

Findings and Recommendations

Allegation (A) Police Officer Caner Sezer pointed his gun at § 87(2)(b)

Allegation (B) Police Officer Caner Sezer threatened § 87(2)(b) with the use of force.

It is undisputed that § 87(2)(b) was the driver and sole occupant of a white 2012 Infiniti G25x when he was stopped by Police Officer Sezer. The road had a speed limit of 25 miles per hour. Police Officer Sezer observed and tagged § 87(2)(b) driving speed at 40 miles per hour in the vicinity of Utica Avenue and Farragut Road. Police Officer Sezer followed § 87(2)(b) in his marked patrol vehicle. Police Officer Sezer exited his patrol vehicle and approached § 87(2)(b) driver side with his firearm drawn and pointed at § 87(2)(b). Police Officer Sezer told § 87(2)(b) "If you move, you're gonna get hurt." Upon receiving § 87(2)(b) compliance, Police Officer Sezer holstered his firearm.

During § 87(2)(b) CCRB statement (Board Review 1 and Board Review 2), he stated that that his vehicle produced loud engine sounds and that it had window tint below the legal limit. § 87(2)(b) drove on the lane next to the sidewalk and his speed did not exceed the legal limit. A marked police vehicle drove towards § 87(2)(b) from the opposite direction and on the opposite lane. § 87(2)(b) came to a full stop when the police vehicle was beside him. The police vehicle pulled over behind § 87(2)(b) and had its turret lights turned on. Police Officer Sezer exited and approached § 87(2)(b) with his firearm pointed at § 87(2)(b) through the rolled down driver side window. § 87(2)(b) described the firearm as a black Glock. Police Officer Sezer instructed § 87(2)(b) to remove the vehicle keys from the ignition. § 87(2)(b) asked Police Officer Sezer "Why did you pull the gun out on me?" Police Officer Sezer asked § 87(2)(b) "Do you have something in your car that I should know about?" Police Officer Sezer instructed § 87(2)(b) to present his driver's license. Police Officer Sezer continued to have his firearm pointed at § 87(2)(b). Police Officer Bell exited the patrol vehicle. Police Officer Bell remained at the front of the patrol vehicle.

Police Officer Bell told Police Officer Sezer “Put the gun away. Put the gun away.” Police Officer Sezer holstered his firearm. Police Officer Sezer pointed his firearm at § 87(2)(b) for between three and five minutes.

During Police Officer Sezer’s CCRB interview (Board Review 5), he stated that he was the driver of his patrol vehicle. Police Officer Sezer observed and tagged a white Infiniti with tinted windows traveling at 40 miles per hour with his laser. Police Officer Sezer turned on his turret lights and sirens followed the vehicle with the intent to pull it over. The driver, § 87(2)(b) did not pull over upon when the turret lights turned on. Water blasted on Police Officer Sezer’s windshield from the Infiniti’s exhaust pipe. It was Police Officer Sezer’s understanding that water comes out of a vehicle’s exhaust pipe when the driver is accelerating. Police Officer Sezer increased his speed to approximately 65 to 70 miles per hour to catch up with § 87(2)(b). Police Officer Sezer drove in front of § 87(2)(b) to stop § 87(2)(b) from driving further. Police Officer Sezer and Police Officer Bell exited their patrol vehicle. Police Officer Sezer approached § 87(2)(b) driver side with his firearm drawn. Police Officer Sezer could not see into § 87(2)(b) vehicle. Police Officer Bell was behind Police Officer Sezer and did not have his firearm drawn. § 87(2)(b) lowered his window. Police Officer Sezer pointed his firearm at a downward position towards § 87(2)(b) for approximately five seconds. Police Officer Sezer thought that § 87(2)(b) evaded the police because he may have possessed a firearm. Police Officer Sezer told § 87(2)(b) “If you move, you’re gonna get hurt.” Police Officer Sezer stated that he was in fear for his safety. Police Officer Sezer did not want § 87(2)(b) to make any subtle movements. Police Officer Sezer stated that he wanted § 87(2)(b) to remain still because he wanted to gain control of the situation. Police Officer instructed § 87(2)(b) to not move and requested for his keys and documentation. § 87(2)(b) had his hands raised up and was compliant with Police Officer Sezer’s demands. Police Officer Sezer holstered his firearm.

In Police Officer Sezer’s BWC video (Board Review 4), beginning at internal timestamp 00:36:03, Police Officer Sezer approaches § 87(2)(b) driver side with his firearm drawn, and points it at § 87(2)(b) through the rolled down driver side window. Police Officer Sezer instructs § 87(2)(b) to turn his vehicle off, to not move, and to present his vehicle keys and documentation. § 87(2)(b) complies with Police Officer Sezer’s demands. At internal timestamp 00:36:23, Police Officer Sezer tells § 87(2)(b) “You fucking move, you’re gonna get hurt, you understand?” At internal timestamp 00:36:28, Police Officer Sezer holsters his firearm. § 87(2)(b) asks Police Officer Sezer if he was being detained. Police Officer Sezer tells § 87(2)(b) that he is detained for evading the police. § 87(2)(b) tells Police Officer Sezer that he saw the turret lights on the police officer’s patrol vehicle but did not pull over because he did not hear sirens. At internal timestamp 00:36:54, Police Officer Sezer asks § 87(2)(b) why he took off in his vehicle. § 87(2)(b) reiterates that he was late to work and stated that he drove at the speed of 40 miles per hour. § 87(2)(b) asks Police Officer Sezer how fast he drove. Police Officer Sezer does not reply. At internal timestamp 00:37:28, § 87(2)(b) asks Police Officer Sezer why he was stopped. Police Officer Sezer tells § 87(2)(b) that he was stopped for speeding. At internal timestamp 00:37:30, § 87(2)(b) asks Police Officer Sezer, “You pulled a gun on me for speeding?” Police Officer Sezer replies “Of course.”

Patrol Guide Procedure 221-01 (Board Review 8), states that “Police officers may use force when it is reasonable to ensure the safety of a member of the service, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody... The use of deadly physical force against a person can only be used to protect officers and/or the public from an imminent serious physical injury or death... Drawing a firearm prematurely or unnecessarily limits a uniformed member's options in controlling a situation and may result in an unwarranted or accidental discharge of the firearm. The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member

of the service determines that the potential for serious physical injury is no longer present, the uniformed member of service will holster the firearm as soon as practicable."

People v. Senkitael, 32 Misc. 3d 1237(A) (Board Review 13) states that it is reasonable to infer that an individual had knowledge that the officers were engaged in an official function from the point in time that the individual refused to stop for a marked police vehicle with lights and sirens continuing in operation for three blocks.

According to Patrol Guide Procedure 221-01 (Board Review 8), a police officer can use force to place an individual in custody and to prevent them from escaping. It remains disputed whether Police Officer Sezer turned on his sirens in addition to his turret lights, and therefore it also remains disputed whether § 87(2)(b) knew Police Officer Sezer was in engaged in official police action with him. The investigation could not credit or discredit Police Officer Sezer's claim that § 87(2)(b) fled from the police. However, when Police Officer Sezer approached § 87(2)(b) and threatened him with his firearm, § 87(2)(b) was seated in his stopped vehicle and was in compliance with Police Officer Sezer's demands. Police Officer Sezer could not articulate any facts to support why he thought § 87(2)(b) might have been in possession of a firearm outside of § 87(2)(b) reckless driving and Police Officer Sezer's experience as a police officer in the 67 Precinct. Weighing the severity of the crime at issue, § 87(2)(b) traffic violation was not a violent or serious crime, § 87(2)(g). Police Officer Sezer pointed his gun and threatened to use further force towards § 87(2)(b) who was not threatening anyone's safety nor Police Officer Sezer's authority. § 87(2)(g)

Allegation (C) Police Officer Caner Sezer spoke discourteously to § 87(2)(b)

It is undisputed that Police Officer Sezer used the words, "Shit" and "Fucking" when he spoke with § 87(2)(b). It remains disputed whether Police Officer Sezer had his sirens on when following § 87(2)(b) to pull him over.

In § 87(2)(b) CCRB statement (Board Review 1 and Board Review 2), § 87(2)(b) did not claim any use of profanity by Police Officer Sezer during the incident.

In Police Officer Sezer's CCRB statement (Board Review 5), he stated that when he approached § 87(2)(b) driver side with his firearm drawn, he told § 87(2)(b) "Don't fucking move. If you move, you're gonna get hurt." Police Officer Sezer instructed § 87(2)(b) to turn off his vehicle. When § 87(2)(b) told Police Officer Sezer that he was a postal worker and was on his way to work, Police Officer Sezer told § 87(2)(b) "I don't give a shit."

According to Police Officer Sezer's BWC video footage (Board Review 4), at internal timestamp 00:36:12, Police Officer Sezer told § 87(2)(b) "I don't give a shit", when § 87(2)(b) told him that he was a postal worker and was on his way to work. At internal timestamp 00:36:16, Police Officer Sezer instructed § 87(2)(b) to "Don't fucking move", and at internal timestamp 00:36:24, Police Officer Sezer told § 87(2)(b) "You fucking move, you're gonna get hurt, you understand?"

Patrol Guide Procedure 200-02 (Board Review 16) states that "the department is committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is expected of others."

DCT Case No. 2015-15012 (Board Review 15) states that "officers are to behave professionally and

respectfully towards members of the public and avoid the use of discourteous language; however, officers' use of profanities during stressful street encounters do not constitute misconduct."

By his own admission Police Officer Sezer used the word "Fuck" and "Shit" when he spoke with § 87(2)(b). The use of profanities during stressful street encounters do not constitute misconduct. However, from the BWC, it was apparent that Police Officer Sezer was not in a stressed state and was overall dismissive of what § 87(2)(b) had to say. When § 87(2)(b) told Police Officer Sezer that he was a postal worker, Police Officer response with profanity demonstrated a lack of compassion, courtesy, professionalism, and respect. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation (D) Police Officer Caner Sezer threatened to arrest § 87(2)(b)

It is undisputed that when Police Officer pulled § 87(2)(b) over, Police Officer Sezer told § 87(2)(b) that he felt like taking § 87(2)(b) to jail. It remains disputed whether Police Officer Sezer had his sirens on when pursuing § 87(2)(b) to pull him over.

In § 87(2)(b) telephone statement (Board Review 1 and Board Review 2), § 87(2)(b) stated that the speed limit was 25 miles per hour and that he did not exceed it. § 87(2)(b) denied evading from Police Officer Sezer's pursuing vehicle.

Police Officer Sezer during his CCRB interview (Board Review 5) stated that he observed a white Infiniti traveling at a speed of 40-45 miles an hour on street with a speed limit of 25 miles per hour. Police Officer Sezer claimed that § 87(2)(b) was speeding and fled at 65-70 miles per hour.; Police Officer Sezer during his CCRB interview was presented with his own BWC video footage (Board Review 4). The video captured Police Officer Sezer telling § 87(2)(b) that he felt like taking § 87(2)(b) to jail for evading the police. During his CCRB interview, Police Officer Sezer stated that evading the police was an offense that could result in an individual being taken to jail. Police Officer Sezer issued three summonses to § 87(2)(b). They were for speeding in a posted limit zone, speeding not reasonable and prudent, and failing to comply to a lawful order when § 87(2)(b) did not initially pull over.

In Police Officer Sezer's BWC video footage (Board Review 4), at internal timestamp 00:36:54, Police Officer Sezer asks § 87(2)(b) why he continued to drive his vehicle. § 87(2)(b) says that he was late to work, and that he drove at the speed of 40 miles per hour. § 87(2)(b) tells Police Officer Sezer that he saw the turret lights on the patrol vehicle but did not pull over because he did not hear sirens. At internal timestamp 00:37:11, § 87(2)(b) asks Police Officer Sezer if he was being detained. Police Officer Sezer tells § 87(2)(b) "Right now I'm thinking about taking you to jail right now, so hang tight." § 87(2)(b) asks Police Officer for the reason why. Police Officer Sezer tells § 87(2)(b) "For evading the police."

People v. Senkitael, 32 Misc. 3d 1237(A) (Board Review 13) states that it is reasonably to inferred that an individual had knowledge that the officers were engaged in an official function from the point in time that the individual refused to stop for a marked police vehicle with lights and sirens continuing in operation for three blocks.

Penal Law Section 195.05 (Board Review 12) states that "Under our law, a person is guilty of Obstructing Governmental Administration in the Second Degree when that person intentionally [obstructs, impairs or perverts the administration of law or other governmental function or] prevents

or attempts to prevent a public servant from performing an official function, Select appropriate alternative(s): by means of intimidation, physical force or interference [or] by means of any independently unlawful act [or] by means of interfering, whether or not physical force is involved

§ 87(2)(b) admitted that he saw Police Officer Sezer's turret lights activated, but he did not hear any sirens before he pulled over. Police Officer Sezer's BWC video footage (Board Review 4) did not capture audio prior to Police Officer Sezer exiting his patrol vehicle. § 87(2)(b) failure to pull over for Police Officer Sezer could have been deemed obstruction of governmental administration, an arrestable offense, if § 87(2)(b) had seen Police Officer Sezer's turret lights and heard his sirens. § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Police Officer Sezer has been a member of service for nine years and a subject in 12 additional CCRB cases with 27 total charges. Five of the cases are currently opened. There were no substantiations. There were no substantiations § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim request was submitted to the NYC Office of the Comptroller on October 30, 2020. § 87(2)(b) did not file any claims with the city of New York. (Board Review 17).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 15

Investigator: Jeffrey Tsui INV Jeffrey Tsui 01/25/22
Signature Print Title & Name Date

Squad Leader: Simon Wang IM Simon Wang 01/31/22
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

